

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

LEAGUE OF UNITED LATIN AMERICAN  
CITIZENS (LULAC), et al.,

Plaintiffs,

v.

GREG ABBOTT, et al.,

Defendants.

Civil Action No. 3:21-cv-259  
(DCG-JES-JVB)  
(consolidated cases)

**NOTICE REGARDING *LULAC v. PATRICK* DOCUMENTS APPEAL**

On July 25, 2022, this Court granted the United States’ motion to enforce its document subpoenas against the Legislators<sup>1</sup> and ordered them to produce documents notwithstanding their assertions of the legislative privilege and other discovery protections (the “July 25, 2022 Order”). *See* Legis. Docs. Order, ECF No. 467. The Legislators appealed and the Fifth Circuit entered an administrative stay of the July 25, 2022 Order. *See* Notice of Appeal, ECF No. 479; Admin. Stay Order, *LULAC v. Patrick*, No. 22-50662 (5th Cir. July 27, 2022), ECF No. 30-2. While that appeal remained stayed, the Fifth Circuit issued two other opinions involving the legislative privilege: *Jackson Municipal Airport Authority v. Harkins*, 67 F.4th 678 (5th Cir. 2023), and *LULAC Texas v. Hughes*, 68 F.4th 228 (5th Cir. 2023). To give this Court the first opportunity to opine on the impact of *Harkins* and *Hughes* on the July 25, 2022 Order, the

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<sup>1</sup> The Legislators include Rep. Steve Allison, Mark Bell, Rep. Tim Craddick, Rep. Philip Cortez, Darrell Davila, Jay Dyer, Adam Foltz, Colleen Garcia, Rep. Ryan Guillen, Sen. Joan Huffman, Rep. Todd Hunter, Rep. Jacey Jetton, Rep. Ken King, Koy Kunkel, Rep. Brooks Landgraf, Rep. J.M. Lozano, Anna Mackin, Rep. Geanie Morrison, Rep. Andrew Murr, Sean Opperman, Lt. Gov. Dan Patrick, Speaker Dade Phelan, and Julia Rathgeber.

United States proposed that the Fifth Circuit either remand the *Patrick* appeal or allow the parties an opportunity to seek an indicative ruling from this Court. *See* Joint Status Report ¶¶ 3-4, *LULAC v. Patrick*, No. 22-50662 (5th Cir. May 24, 2023), ECF No. 100; Joint Status Report ¶¶ 4-5, *LULAC v. Patrick*, No. 22-50662 (5th Cir. June 26, 2023), ECF No. 102.

This Court previously ordered the parties to furnish advisories on developments in higher courts that pertain to the instant proceedings. *See* Clarification Order 2, ECF No. 654. In particular, the Court requested an update “when the Fifth Circuit decides how *Patrick* will proceed.” Briefing Schedule Order 2, ECF No. 703. Accordingly, the United States provides notice that the Fifth Circuit today vacated the July 25, 2022 Order in light of *Hughes* and remanded the *Patrick* appeal to this Court. *See* Unpublished Order 11, *LULAC v. Patrick*, No. 22-50662 (5th Cir. July 18, 2023), ECF No. 107-1 (Ex. 1). The United States will confer with the parties on next steps and advise the Court regarding a proposed briefing schedule.

Date: July 18, 2023

KRISTEN CLARKE  
Assistant Attorney General  
Civil Rights Division

/s/ Jaywin Singh Malhi  
T. CHRISTIAN HERREN, JR.  
TIMOTHY F. MELLETT  
DANIEL J. FREEMAN  
MICHELLE RUPP  
JACKI L. ANDERSON  
HOLLY F.B. BERLIN  
JAYWIN SINGH MALHI  
Attorneys, Voting Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530  
(800) 253-3931  
jaywin.malhi@usdoj.gov

**CERTIFICATE OF SERVICE**

I hereby certify that, on July 18, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and caused to be served by email a copy of this filing to counsel of record.

/s/ Jaywin Singh Malhi

Jaywin Singh Malhi  
Attorney, Voting Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Ave, NW  
Washington, DC 20530  
(800) 253-3931  
jaywin.malhi@usdoj.gov